

JOHNIN THE UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF WEST VIRGINIA

ELECTRONICALLY  
FILED  
Dec 11 2020  
U.S. DISTRICT COURT  
Northern District of WV

TINA MCWILLIAMS,

Plaintiff,

v.

CIVIL ACTION NO.: 1:20-CV-270 (Keeley)  
20-C-264-3

JOHN WESLEY FRYE  
and ISCO INDUSTRIES, INC.,

Defendants.

**NOTICE OF REMOVAL**

TO THE HONORABLE JUDGES IN THE UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF WEST VIRGINIA:

Defendants, John Wesley Frye and ISCO Industries, Inc., by and through their attorneys,  
Rawle & Henderson, LLP, respectfully avers as follows:

1. On or about November 6, 2020, Plaintiff commenced a civil action against  
Defendant John Wesley Frye (“Frye”) and IGES Industries, Inc. in the Circuit Court of Harrison  
County, West Virginia. *See Plaintiff’s Complaint* attached as Exhibit “A.”

2. The Summons and *Complaint*, being the original process in this case and the first  
notice of said action, was first received by Defendant Frye no earlier than November 12, 2020. *See*  
*Docket Sheet* attached as Exhibit “B.” Thus, this Notice of Removal is filed within the time  
provided by 28 U.S.C. §1446(b).

3. On or about December 3, 2020, Plaintiff filed a *Notice of Voluntary Dismissal of*  
*IGES Industries* (See Exhibit “B” and Exhibit “C”) as well as a *First Amended Complaint* (Exhibit  
“D”) naming ISCO Industries, Inc. (“ISCO”) as a Defendant. Undersigned counsel represents that

pursuant to an agreement between counsels, he agreed to accept service of process of these pleadings on behalf of Defendants; service was effectuated on December 3, 2020.

4. At all times material, Defendant, ISCO was and is a corporation incorporated under the laws of the State of Kentucky with its principal place of business located in Louisville, KY.

5. At all times material, Defendant, John Wesley Frye, was and is a citizen of the State of Virginia.

6. At all times material, Plaintiff, Tina McWilliams, was and is a citizen of the State of West Virginia, residing in Harrison County, West Virginia. Exhibits “A” at ¶ 1, “D” at ¶ 1.

7. In the *Complaint* and *First Amended Complaint*, Plaintiff claims, *inter alia*, that as a result of the accident at issue herein, she “suffered serious injuries to her body,” which required her to incur medical expenses, pain and suffering, physical limitations, diminished capacity to enjoy life, annoyance and inconvenience, and “other consequences and damages associated with their injuries as may be specified as this action progresses.” As a consequence, Plaintiff seeks compensatory damages in an amount to be determined by a jury, as well as other damages such as punitive damages, pre-judgment and post-judgment interest as allowed by law, attorneys’ fees, costs and expenses incurred in connection with this action, and such other and further relief as this Court deems just and appropriate under the circumstances. *See* Exhibits “A” & “D.” Based upon this, it is clear that the amount in controversy exceeds the jurisdictional threshold.

9. Diversity of citizenship within the meaning of 28 U.S.C. §1332, exists between Plaintiff and Defendants since:

- (a) Plaintiff is a citizen and resident of the State of West Virginia; and
- (b) Defendants are not citizens or residents of the State of West Virginia.

10. Furthermore, diversity of citizenship existed at the time the action sought to be removed was commenced and continues through the time of the filing of this notice, such that Defendants are entitled to removal pursuant to 28 U.S.C. §1441 as amended, and 28 U.S.C. §1446.

11. The undersigned was retained as defense counsel for Defendants and they consent to this removal.

WHEREFORE, Defendants, John Wesley Frye and ISCO Industries, Inc., pray that the above-captioned action now pending in the Circuit Court of Harrison County, West Virginia, be removed therefrom to This Honorable Court.

Dated: December 11, 2020

Respectfully Submitted,

RAWLE & HENDERSON, LLP

By: /s/ Matthew G. Chapman  
Edward J. Chiodo, Esq. (WVSB #7262)  
Matthew G. Chapman, Esq. (WVSB #11440)  
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Defendants.

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and correct copy of the foregoing Notice of Removal was served upon the below this 11th day of December, 2020, by U.S. Mail, postage prepaid to:

Chirag B. Desai, Esq.  
Edmund L. Wagoner, Esq.  
Wagoner & Desai, PLLC  
265 High Street, 3<sup>rd</sup> Floor  
Morgantown, WV 26505  
**Counsel for Plaintiff**

By: /s/ Matthew G. Chapman  
Edward J. Chiodo, Esq. (WVSB #7262)  
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